

## **REVISION TO 7 DE ADMIN CODE 1125**

### **REQUIREMENTS FOR PRECONSTRUCTION REVIEW**

#### **SECTION 1.9 “DEFINITIONS”**

The Department proposes to revise Delaware 7 DE Admin Code 1125 [the Delaware new source review (NSR) regulation] to restore language inadvertently removed thus re-establishing agreement between the Delaware and the federal NSR rule in this regard. This action was authorized by SAN 2013-24 on August 21, 2013.

The Delaware NSR regulation includes Section 2.0 “Emissions Offset Provisions (EOP)” to regulate stationary sources not in compliance with the national ambient air quality standard (NAAQS) for any of six criteria pollutants (ground-level ozone, particulate matter, carbon monoxide, nitrogen dioxide, sulfur dioxide and lead), and Section 3.0 “Prevention of Significant Deterioration of Air Quality”, or PSD, for sources in attainment and for major sources emitting 250 tons per year (or in certain cases 100 tpy) of any pollutant subject to regulation under the Clean Air Act. Delaware is in non-attainment of the ground-level ozone NAAQS thus requiring the application of Section 2.0 to new and modified sources emitting the ozone precursors NO<sub>x</sub> (nitrogen oxides) and VOC (volatile organic compounds). Nitrogen oxides (generally considered a mixture of mostly nitrogen dioxide with some nitrogen oxide) are regulated for sources emitting 25 tpy in New Castle and Kent Counties and 40 tpy in Sussex County.

EPA has a separate NAAQS for nitrogen dioxide (NO<sub>2</sub>) which is currently 100 parts per billion (ppb) and Delaware is, and always has been, in attainment of this standard. When determining NSR applicability under PSD for a stationary source modification, the procedure requires comparing projected source pollutant emissions to that pollutant’s significance level shown in the table in part (a) under the definition of “Significant” in Section 1.9 “Definitions” of the Delaware NSR regulation. The federal NSR rule, 40 CFR 51.166(b)(23), has always listed a nitrogen oxides significance level of 40 tpy. In past years, so did the Delaware NSR regulation. Sometime in the early 1990’s, that entry in the Delaware regulation was inadvertently removed. Note that nitrogen dioxide is used as an indicator for nitrogen oxides and the terms are often used interchangeably.

This action proposes to rectify that omission and restore agreement between the federal and EPA NSR rules. Since Delaware air quality is adequately protected through regulation of NO<sub>x</sub> emissions under Section 2.0, this omission has not caused a decrease in air quality.

The proposed rule was published in the October 1, 2013 Register of Regulations and a public hearing will be held on October 28, 2013.